

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

JING GAO, ALVIN RABSATT,  
BARRY NIXON, PATRICIA NIXON,  
KATHERINE PIERCE, ARTHUR  
PIERCE, MADISON LOWE, and  
IOLANDA LOWE, on behalf of  
themselves and all others similarly  
situated,

VS.

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CIVIL ACTION NO. 3:16-cv-00323

BLUE RIDGE LANDFILL TX, LP

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**PLAINTIFFS' UNOPPOSED MOTION TO EXTEND DEADLINE TO RESPOND TO  
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

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TO THE HONORABLE DISTRICT JUDGE:

Plaintiffs Jing Gao, Alvin Rabsatt, Barry Nixon, Patricia Nixon, Katherine Pierce, Madison Lowe, and Iolanda Lowe ("Plaintiffs") hereby request that the Court extend the deadline for Plaintiffs to respond to Defendant's Motion for Summary Judgment ([Doc. No. 61]) and, in support thereof, would respectfully show as follows:

1. On August 10, 2017, Defendant filed a Motion for Summary Judgment ([Doc. No. 61]) that asserts, among other things, that Plaintiffs' claims are barred because Defendant claims that the nuisance must have begun outside the statute of limitations.
2. Discovery is ongoing in this case. On August 24, 2018, the parties deposed the agency designee of the Texas Commission on Environmental Quality. Plaintiffs' counsel has been informed that the transcript of that deposition will not be available prior to the current August 31, 2018 deadline to respond to Defendant's motion.
3. Plaintiffs intend to use testimony from the TCEQ deposition in support of their argument

that to the extent the nuisance may be deemed permanent, it did not begin until late 2015 and therefore no claims are barred and the Plaintiffs do not lack standing to pursue their claims.

4. Plaintiffs request that the Court extend the deadline to respond to Defendant's motion from August 31, 2018 to September 14, 2018 so that the Court may have the benefit of the record in deciding that motion.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray the Court reset the deadline for Plaintiffs to respond to Defendant's Motion for Summary Judgment from August 31, 2018 to September 14, 2018.

**Dated: August 30, 2018**

Respectfully submitted,

GILMAN ~~\*~~ ALLISON LLP

/s/ Brenton J. Allison

Brenton J. Allison  
Texas Bar No. 24040417  
Federal I.D. No. 36863  
Douglas T. Gilman  
Texas Bar No. 24048496  
Federal I.D. No. 19897  
Telephone (713) 224-6622  
Facsimile (866) 543-3643  
[ballison@gilmanallison.com](mailto:ballison@gilmanallison.com)

David R. Dubin\*  
Nicholas A. Coulson\*  
*\*Pro Hac Vice Motions to be Submitted*  
**LIDDLE & DUBIN PC**  
975 E. Jefferson Avenue  
Detroit, Michigan 48207-3101  
Tel: (313) 392-0015/Fax: (313) (313) 392-0025  
[ddubin@ldclassaction.com](mailto:ddubin@ldclassaction.com)  
[ncoulson@ldclassaction.com](mailto:ncoulson@ldclassaction.com)

**ATTORNEYS FOR PLAINTIFFS AND THE  
PUTATIVE CLASS**

**OF COUNSEL:**

GILMAN ~~\*~~ ALLISON LLP  
Liddle & Dubin, P.C.

**CERTIFICATE OF CONFERENCE**

I hereby certify that counsel for Plaintiffs have conferred with counsel for Defendant and that they are UNOPPOSED to the motion and relief sought herein.

/s/ Brenton J. Allison

Brenton J. Allison

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed this document on this **30th day of August, 2018**, and that a true and correct copy of the foregoing was served on all counsel of record via CM/ECF, facsimile (pursuant to written agreement of counsel), hand delivery, or certified mail – return receipt requested.

Troy Ford  
Patrice Childress  
Beck Redden LLP  
1221 McKinney Street  
Houston, Texas 77010

***VIA CM/ECF***

William G. Beck  
Robert G. Rooney  
Lathrop & Gage LLP  
2345 Grand Blvd., Suite 2200  
Kansas City, Missouri 64108-2618

***VIA CM/ECF***

/s/ Brenton J. Allison  
Brenton J. Allison